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8 **UNITED STATES DISTRICT COURT**  
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
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11 TECHNOLOGY IN ARISCALE, LLC,  
12 Plaintiff,  
13 v.  
14 RAZER USA, LTD.,  
15 Defendant.  
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Case No. 8:22-cv-02310-JWH-ADS

**ORDER GRANTING  
DEFENDANT'S MOTION FOR  
JUDGMENT ON THE PLEADINGS  
[ECF NO. 41]**

1 In its First Amended Complaint, Plaintiff Technology in Ariscale, LLC  
 2 accuses Defendant Razer USA, Ltd. of infringing Ariscale's U.S. Patent  
 3 No. 8,139,652 (the "'652 Patent").<sup>1</sup> Presently before the Court is Razer's  
 4 motion for judgment on the pleadings, pursuant to Rule 12(c) of the Federal  
 5 Rules of Civil Procedure. Specifically, Razer seeks a determination that  
 6 the '652 Patent is invalid under 35 U.S.C. § 101 for claiming patent-ineligible  
 7 subject matter.<sup>2</sup> After considering the papers filed in support and in opposition,<sup>3</sup>  
 8 as well as the oral argument of counsel at the hearing on the Motion, the Court  
 9 **GRANTS** the Motion and **DISMISSES** the Amended Complaint **without**  
 10 **leave to amend.**

## 11 I. BACKGROUND

### 12 A. Procedural History

13 In December 2022, Ariscale filed its Complaint, thereby commencing this  
 14 action.<sup>4</sup> Ariscale alleged that Razer's activities concerning its "Wi-Fi  
 15 compatible" products infringe at least Claims 1, 2, 14, and 15 of the '652 Patent,  
 16 which is entitled "Method and Apparatus for Decoding Transmission Signals in  
 17 a Wireless Communication System."<sup>5</sup> Two months later, Razer moved to  
 18 dismiss Ariscale's Complaint.<sup>6</sup>

21 <sup>1</sup> First Am. Compl. (the "Amended Complaint") [ECF No. 37] ¶¶ 43-57.

22 <sup>2</sup> Def.'s Mot. for Judgment on the Pleadings (the "Motion") [ECF No. 41].

23 <sup>3</sup> The Court considered the documents of record in this action, including  
 24 the following papers: (1) Amended Complaint; (2) Motion; (3) Pl.'s Opp'n to  
 25 the Motion (the "Opposition") [ECF No. 43]; and (4) Def.'s Reply in Supp. of  
 the Motion (the "Reply") [ECF No. 45].

26 <sup>4</sup> Compl. (the "Complaint") [ECF No. 1].

27 <sup>5</sup> *See generally id.*

28 <sup>6</sup> Def.'s Mot. to Dismiss [ECF No. 16].

1 In November 2023, the Court issued an order granting Razer’s motion  
 2 and dismissing Ariscale’s infringement claim.<sup>7</sup> The Court found Claim 1 of the  
 3 ’652 Patent representative of Claims 2, 14, and 15<sup>8</sup> and concluded that Claim 1 is  
 4 directed to the abstract idea of decoding information.<sup>9</sup> The Court also  
 5 concluded that Ariscale had not pleaded any facts that would plausibly support a  
 6 finding of an inventive concept in Claim 1.<sup>10</sup> However, the Court granted  
 7 Ariscale leave to amend.<sup>11</sup>

8 In December 2023, Ariscale filed the operative Amended Complaint.<sup>12</sup>  
 9 Like its original Complaint, Ariscale’s Amended Complaint alleges that Razer’s  
 10 products infringe the ’652 Patent because those products comply with the  
 11 Institute of Electrical and Electronics Engineers 802.11ac standard (the “Wi-Fi  
 12 Standard”).<sup>13</sup> Again, Ariscale does not assert that the ’652 Patent is a standard  
 13 essential patent.<sup>14</sup> Ariscale attached a claim chart to its Amended Complaint  
 14 that compares Claim 1 of the ’652 Patent with the Wi-Fi Standard.<sup>15</sup> Ariscale  
 15 alleges that the specification of the ’652 Patent and external commentary

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 17 <sup>7</sup> Order regarding Mot. to Dismiss (“Order”) [ECF No. 36].

18 <sup>8</sup> *Id.* at 7 n.21.

19 <sup>9</sup> *Id.* at 9.

20 <sup>10</sup> *Id.* at 10.

21 <sup>11</sup> *Id.*

22 <sup>12</sup> *See generally* Amended Complaint.

23 <sup>13</sup> *Compare id.* ¶¶ 29 & 31 *with* Complaint ¶¶ 19, 21, & 22.

24 <sup>14</sup> *Compare* Amended Complaint ¶ 18 (“The ’652 Patent is directed to  
 25 important improvements related to the VHT-SIG-B field which is introduced in  
 26 IEEE 802.11ac Standard.”) *with* Complaint ¶ 21 (“[O]n information and belief,  
 27 it is clear to those of ordinary skill in the art that practicing methods of decoding  
 received signals that have been transmitted according to the 802.11ac standard  
 infringes ARISCALE’s Asserted Patent.”).

28 <sup>15</sup> Amended Complaint ¶¶ 36–40; *see also* Claim Chart [ECF No. 37-6].

1 directed to the Wi-Fi Standard provide evidence of an inventive concept in  
2 Claim 1.<sup>16</sup>

3 Razer filed the instant Motion in January 2024, and it is fully briefed.<sup>17</sup>

#### 4 **B. Technology at Issue**

5 The Court discussed the technological background of the '652 Patent in  
6 its ruling on Razer's Motion to Dismiss.<sup>18</sup> The Court incorporates that  
7 discussion by reference here. Representative Claim 1 of the '652 Patent  
8 discloses:

9 1. A computer-implemented method for decoding a transmission  
10 signal, the method comprising:

11 receiving, using a computer processor, the transmission signal,  
12 which is formed by repeating symbols including downlink  
13 frame prefix information, encoding repeated symbols to form  
14 encoding blocks, and interleaving the encoding blocks;

15 deinterleaving, using a computer processor, the received  
16 transmission signal;

17 combining, using a computer processor, symbols at the same  
18 positions of deinterleaved encoding blocks among the  
19 repeated symbols in the deinterleaved transmission signal;  
20 and

21 decoding, using a computer processor, the combined symbols.<sup>19</sup>

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25 <sup>16</sup> See Amended Complaint ¶¶ 20, 21, & 23–26.

26 <sup>17</sup> See generally Motion; Opposition; Reply.

27 <sup>18</sup> Order 2–4.

28 <sup>19</sup> '652 Patent [ECF No. 37-1], Claim 1.

## II. LEGAL STANDARD

At any time after the pleadings close and before the trial commences, a party may move for a judgement on the pleadings. *See* Fed. R. Civ. P. 12(c). A motion under Rule 12(c) is substantively identical to a motion to dismiss under Rule 12(b)(6); it tests the legal sufficiency of the claims asserted in the complaint. *See Erickson v. Boston Sci. Corp.*, 846 F. Supp. 2d 1085, 1089 (C.D. Cal. 2011) (internal citations omitted). In ruling on a Rule 12(c) motion, the Court accepts all allegations of the non-moving party as true. *See id.* The Court then determines “whether the complaint at issue contains sufficient factual matter, accepted as true, to state a claim of relief that is plausible on its face.” *PersonalWeb Techs. LLC v. Google LLC*, 8 F.4th 1310, 1314 (Fed. Cir. 2021) (applying Ninth Circuit procedural law) (internal quotation marks omitted).

The Court provided the relevant legal standards regarding subject matter eligibility under 35 U.S.C. § 101 in its prior ruling.<sup>20</sup> The Court incorporates that discussion by reference here.

The Federal Circuit recognizes that a district court may determine patent eligibility under § 101 in connection with a Rule 12(b)(6) or a Rule 12(c) motion, “where the undisputed facts, considered under the standards required by that Rule, require a holding of ineligibility under the substantive standards of law.” *SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161, 1166 (Fed. Cir. 2018) (collecting cases).

## III. DISCUSSION

Razer moves for judgment on the pleadings on the ground that the ‘652 Patent claims ineligible subject matter under 35 U.S.C. § 101. The Court

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<sup>20</sup> Order 4–5.

1 previously found Claim 1 directed to the abstract idea of decoding information.<sup>21</sup>  
 2 Thus, this ruling concerns only *Alice/Mayo* Step Two.

3 **A. *Alice/Mayo* Step Two**

4 The Step Two inquiry considers whether the claim includes “an inventive  
 5 concept sufficient to transform the claimed abstract idea into a patent-eligible  
 6 invention.” *Yu v. Apple Inc.*, 1 F.4th 1040, 1045 (Fed. Cir. 2021), *cert. denied*,  
 7 142 S. Ct. 1113 (2022). To contain an inventive concept, the claim must teach  
 8 more than implementation of the abstract idea using well understood, routine, or  
 9 conventional techniques. *See Coop. Ent., Inc. v. Kollektive Tech., Inc.*, 50 F.4th  
 10 127, 130 (Fed. Cir. 2022). Generic functional language that describes achieving  
 11 a desired result is not enough. *See Two-Way Media Ltd. v. Comcast Cable*  
 12 *Commc’ns, LLC*, 874 F.3d 1329, 1339 (Fed. Cir. 2017). The claims must indicate  
 13 **how** that result is achieved and the inventive concept must be evident in the  
 14 claims, not merely in the specification. *See id.* at 1338–39.

15 **B. The Parties’ Positions**

16 Razer argues that Claim 1 is nonspecific and that it does not include an  
 17 inventive concept.<sup>22</sup> Specifically, Razer asserts that Claim 1 includes “no  
 18 description of how the [abstract ideas of] receiving, deinterleaving, combining  
 19 and decoding” are performed.<sup>23</sup> Razer further contends that that the  
 20 “receiving,” “deinterleaving,” “combining,” and “decoding” steps were well  
 21 understood, routine, and conventional at the time that the invention was made.<sup>24</sup>

22 Ariscale responds that Claim 1 discloses two inventive concepts. First,  
 23 Ariscale argues that Claim 1 discloses providing a *separate* scheme for improving  
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25 <sup>21</sup> *Id.* at 8–9.

26 <sup>22</sup> Motion 7:19–22.

27 <sup>23</sup> *Id.* (emphasis in original)

28 <sup>24</sup> *Id.* at 8:4–5.

1 reception of downlink frame prefix information.<sup>25</sup> Per Ariscale, the idea of  
 2 separately optimizing that information was not well understood, routine, or  
 3 conventional at the time that the invention was made. Second, Ariscale asserts  
 4 that the “combining” step in Claim 1 is inventive because it recites both *what* is  
 5 to be combined (“the deinterleaved transmission signal”) and *how* it is to be  
 6 combined (by combining “symbols at the same positions of deinterleaved  
 7 encoding blocks among the repeated symbols in the . . . signal”).<sup>26</sup>

8 Razer replies that the ’652 Patent broadly claims and preempts “any  
 9 technique or method for receiving and decoding a transmission signal” instead  
 10 of a *separate* reception performance improvement scheme for downlink frame  
 11 prefix information.<sup>27</sup> Razer also argues that to the extent that the ’652 Patent  
 12 contains a separate reception improvement scheme for downlink frame prefix  
 13 information, that scheme is recited only in the specification, not in Claim 1.<sup>28</sup>  
 14 Razer further contends that the “combining” step of Claim 1 is no “more than  
 15 [a] simple mathematical process . . . in which symbols are added and multiplied  
 16 by 1/2.”<sup>29</sup> Alternatively, Razer argues that the specification of the ’652 Patent  
 17 admits that “those skilled in the art may also use other methods for [the]  
 18 combining . . .” step.<sup>30</sup> Razer also maintains that Claim 1 does not require the  
 19 steps to be performed in any specific order.<sup>31</sup>

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22 <sup>25</sup> Opposition 8:28–9:3.

23 <sup>26</sup> *Id.* at 9:24–27.

24 <sup>27</sup> Motion 9:2–5 & 9:22–24.

25 <sup>28</sup> *Id.* at 9:1–5 & 11:1–5.

26 <sup>29</sup> *Id.* at 12:6–8.

27 <sup>30</sup> *Id.* at 12:9–11 (quoting ’652 Patent 6:38–39).

28 <sup>31</sup> Reply 4:11–12.

1 **C. Analysis**

2 The Court agrees with Razer that Claim 1 of the '652 Patent does not  
3 recite an inventive concept. Ariscale is correct that the Step Two determination  
4 may contain questions of fact and that a patent challenger must establish  
5 ineligibility by clear and convincing evidence. *See Berkheimer v. HP Inc.*, 881  
6 F.3d 1360, 1368 (Fed. Cir. 2018). However, “patent eligibility can be  
7 determined on the pleadings under Rule 12(c) when there are no factual  
8 allegations that, when taken as true, prevent resolving the eligibility question as a  
9 matter of law.” *Data Engine Techs. LLC v. Google LLC*, 906 F.3d 999, 1007  
10 (Fed. Cir. 2018) (citations omitted). Here, Ariscale alleges no facts that would  
11 prevent the Court from resolving the eligibility question as a matter of law.

12 With respect to Ariscale’s first substantive argument, Claim 1 does not  
13 teach a *separate* reception performance enhancement scheme for downlink  
14 frame prefix information. Claim 1 teaches a method for decoding a transmission  
15 signal “*including* downlink frame prefix information.”<sup>32</sup> That plain language  
16 could apply to any signal containing downlink frame prefix information, even a  
17 signal mostly comprised of other data. Ariscale points out that the “separate  
18 scheme” concept is described in the specification of the '652 Patent.<sup>33</sup> That  
19 does not save Claim 1, however. For a claim to survive Step Two, the claim  
20 itself must contain an inventive concept. *See Yu*, 1 F.4th at 1045 (“In other  
21 words, ‘[t]he main problem that [Yu] cannot overcome is that the *claim*—as  
22 opposed to something purportedly described in the specification—is missing an  
23 inventive concept.’”) (quoting *Two-Way Media Ltd. v. Comcast Cable Commc’ns,*  
24 *LLC*, 874 F.3d 1329, 1338 (Fed. Cir. 2017) (emphasis in original)); *see also*  
25 *RecogniCorp, LLC v. Nintendo Co., Ltd.*, 855 F.3d 1322, 1327 (Fed. Cir. 2017)

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27 <sup>32</sup> '652 Patent, Claim 1 (emphasis added).

28 <sup>33</sup> *See, e.g.*, Opposition 9:2–5 (citing '652 Patent, Fig. 3).



1 (“To save a patent at step two, an inventive concept must be evident in the  
2 claims.”).

3 Further, the specification indicates that at the time that the invention was  
4 made, wireless signals typically included downlink frame prefix information.<sup>34</sup>  
5 Ariscale argues the added elements of Claim 1—“receiving,” “deinterleaving,”  
6 “combining,” and “decoding”—supply the missing inventive concept when  
7 applied to a signal including downlink frame prefix information.<sup>35</sup> Again,  
8 however, the specification of the ’652 Patent indicates otherwise. Beside the  
9 “combining” step, the “Background Art” section discloses all elements of  
10 Claim 1 as comprising a “conventional signal transmission/reception  
11 scheme.”<sup>36</sup> Thus, any purportedly inventive concept must be found in the  
12 “combining” step.

13 The “combining” step does not supply an inventive concept. Claim 1  
14 discloses that a “computer processor” is used to “combine” matched  
15 “repeated symbols.”<sup>37</sup> Claim 1 does not explain how the matched symbols are  
16 to be combined.<sup>38</sup> That disclosure demonstrates that the “combining” step is  
17 an abstract idea and that it cannot provide an inventive concept. *See Digitech*  
18 *Image Techs., LLC v. Elecs. for Imaging, Inc.*, 758 F.3d 1344, 1351 (Fed. Cir. 2014)  
19 (invalidating a claim directed to the abstract idea of combining data).

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22 <sup>34</sup> See e.g., ’652 Patent 2:6–10 & 2:22–23 (describing “a conventional signal  
23 transmission/reception scheme” as “[a] signal directly next to a preamble [that]  
24 . . . includes . . . a Downlink Frame Prefix”).

25 <sup>35</sup> Opposition 6:1–8.

26 <sup>36</sup> ’652 Patent 2:2 (“receiving”), 2:4 (“deinterleaving”), & 2:5  
27 (“decoding”).

28 <sup>37</sup> *Id.* at Claim 1.

<sup>38</sup> *Id.*

Moreover, the “combining” step comprises conventional methods. The specification of the ’652 Patent describes the “combining” step as simple arithmetic averaging.<sup>39</sup> Similarly, in the Amended Complaint, Ariscale cites two independent documents related to the IEEE Wi-Fi Standard that Ariscale alleges explain the inventive concept of Claim 1.<sup>40</sup> The quotes that Ariscale selects from both documents note, “processing gain [is achieved by] *averaging* repeated soft values.”<sup>41</sup> Arithmetic averaging cannot supply the missing inventive concept because that process can be “performed in the human mind, or by a human using a pen and paper.” *See CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372 (Fed. Cir. 2011).

Reading Claim 1 in light of the specification of the ’652 Patent confirms that the “combining” step was well understood, routine, and conventional at the time that the invention was made. The specification notes that practitioners skilled in the art may choose “other methods” (instead of arithmetic averaging) for the “combining” step.<sup>42</sup> Thus, the Court agrees with Razer that that statement, combined with the lack guidance in Claim 1 about how the “combining” step should be performed, compels the conclusion that the “combining” step comprises techniques that were well-known to those skilled in the art at the time that the invention was made.

Finally, Ariscale fails to plead facts showing that the “combining” step supplies an inventive concept when viewed as an ordered combination with the other elements of Claim 1. Ariscale argues that “the . . . claim 1 feature of

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<sup>39</sup> *See id.* at Fig. 4 (showing two signals added together then multiplied by  $\frac{1}{2}$ ) & 6:32–36 (characterizing the combination process as taking an arithmetic average of two signals).

<sup>40</sup> Amended Complaint ¶¶ 25 & 26.

<sup>41</sup> *Id.* (emphasis added).

<sup>42</sup> ’652 Patent 6:38–40.

1 ‘combining symbols’ . . . after ‘deinterleaving,’ before ‘decoding’ is also not  
 2 taught or suggested in the conventional art and results in improvements in  
 3 functionality of a wireless network.”<sup>43</sup> First, the Court disregards Ariscale’s  
 4 unsupported attorney argument on that point. Attorney argument regarding the  
 5 unconventionality of a claim element is conclusory; it does not constitute a  
 6 factual allegation. *See Simio, LLC v. FlexSim Software Prod’s, Inc.*, 983 F.3d  
 7 1353, 1365 (Fed. Cir. 2020) (“We disregard conclusory statements when  
 8 evaluating a complaint under Rule 12(b)(6).”) Second, the specification  
 9 discloses that “it is possible to improve the reception performance . . . by  
 10 mutually combining frame intervals including information requiring superior  
 11 reception performance,” but it does not provide a specific order for the  
 12 “combining” step.<sup>44</sup> Thus, Ariscale’s “ordered combination” argument fails.

13 Further, the specification of the ’652 Patent discloses that “the symbol  
 14 combination and averaging of the present invention may also be performed  
 15 before the deinterleaving and decoding.”<sup>45</sup> Similarly, Claim 2 of the ’652 Patent  
 16 is identical to Claim 1 except that the “combining” and “deinterleaving” steps  
 17 are disclosed in reverse order.<sup>46</sup> The Court previously found Claim 1  
 18 representative of Claim 2, which finding Ariscale does not presently dispute.<sup>47</sup>  
 19 Taken together, those disclosures and findings suggest that the sequencing of  
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21 <sup>43</sup> Amended Complaint ¶ 23.

22 <sup>44</sup> *Id.* (quoting ’652 Patent 4:44–48).

23 <sup>45</sup> ’652 Patent 6:49–51.

24 <sup>46</sup> Compare the ordered combinations in the ’652 Patent, Claim 1  
 25 (“receiving,” “deinterleaving,” “combining,” then “decoding”) with those in  
 26 652 Patent Claim 2 (“receiving,” “combining,” “deinterleaving,” then  
 “decoding”).

27 <sup>47</sup> Ariscale no longer asserts Claims 2 and 15. *See generally* Amended  
 28 Complaint.

steps in Claim 1 does not, in and of itself, confer the alleged “unconventional advantages” of Claim 1.<sup>48</sup> Accordingly, the Court concludes that the ordered combination of steps in Claim 1 does not comprise an inventive concept.

In view of the foregoing, the Court identifies no plausible factual basis for finding an inventive concept in Claim 1. *See Secured Mail Sols. LLC v. Universal Wilde, Inc.*, 873 F.3d 905 (Fed. Cir. 2017) (“In ruling on a [Rule] 12(b)(6) motion, a court need not ‘accept as true allegations that contradict matters properly subject to judicial notice or by exhibit,’ such as the claims and the patent specification.”) (quotation omitted); *see also Int’l Bus. Machines Corp. v. Zillow Grp., Inc.*, 50 F.4th 1371, 1379 (Fed. Cir. 2022) (“[T]he district court need not accept a patent owner’s conclusory allegations of inventiveness.”).

#### **D. Leave to Amend**

Ariscale requests leave to amend,<sup>49</sup> but Razer argues that any amendment would be futile.<sup>50</sup> Ariscale does not explain any basis on which it could amend its pleading to address the issues raised in the Motion and discussed in this Order. Accordingly, the Motion is **GRANTED** and the Amended Complaint is **DISMISSED without leave to amend**.

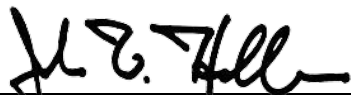
#### **IV. DISPOSITION**

For the foregoing reasons, the Court hereby **ORDERS** as follows:

1. Razer’s Motion for judgment on the pleadings is **GRANTED**.
2. Judgment will issue accordingly.

**IT IS SO ORDERED.**

Dated: March 4, 2024

  
 John W. Holcomb  
 UNITED STATES DISTRICT JUDGE

<sup>48</sup> Opposition 10:21–22.

<sup>49</sup> *Id.* at 12:4–6.

<sup>50</sup> Motion 13:18–19.